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**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF OKLAHOMA**

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**ADRIAN CROSS,**

**Plaintiff,**

**v.**

**TURN KEY HEALTH CLINICS, LLC,  
ROB FRAZIER, JEREMY GARVIN,  
and WILLIAM COOPER,**

**Defendants.**

**ORDER ADOPTING & AFFIRMING  
REPORT & RECOMMENDATION**

**Case No. 6:18-cv-00081-DAK**

**Judge Dale A. Kimball**

This case was assigned to United States District Court Judge Dale A. Kimball, who then referred it to United States Magistrate Judge Dustin B. Pead under 28 U.S.C. § 636(b)(1)(B).<sup>1</sup> On February 6, 2020, Magistrate Judge Pead issued a Report and Recommendation, recommending that the court grant Defendants' motions to dismiss for failure to state a claim pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In addition, Magistrate Judge Pead recommended that Plaintiff's remaining state law claims be dismissed without prejudice for lack of subject-matter jurisdiction. The Report and Recommendation notified Plaintiff that any objection to the Report and Recommendation must be filed within fourteen days of receiving it.

On February 21, 2020, Plaintiff filed three documents with the court: (1) a notice requesting a copy of the Third Amended Complaint; (2) a declaration alleging that (a) when Plaintiff was transferred prisons, he was not allowed to keep any of the legal documents

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<sup>1</sup> This case is before this court pursuant to an out of district referral from United States District Judge Ronald A. White of the Eastern District of Oklahoma with the concurrence of the United States District Court Chief Judge Robert J. Shelby.

associated with this case, and (b) he has made several requests to the court clerk to receive copies of such documents but has yet to receive them; and (3) a motion to stay the proceedings until fourteen days after Plaintiff receives a copy of the Third Amended Complaint and other associated documents. While not characterized as objections, the court will construe Plaintiff's recent filings as objections to the Report and Recommendation.

A Magistrate Judge's Report and Recommendation is subject to *de novo* review by this court. *See* 28 U.S.C. § 636(b)(1)(B); *see also* Fed. R. Civ. P. 72(b). The court has reviewed the Report and Recommendation and the record *de novo*. The court has also reviewed Plaintiff's objections to the Report and Recommendation. The court agrees with Magistrate Judge Pead's recommendation to dismiss Plaintiff's federal claims against Dr. William Cooper ("Dr. Cooper") and Turn Key Health Clinics, LLC ("Turn Key") for failure to state a claim and Plaintiff's remaining state law claims for lack of subject-matter jurisdiction. Importantly, nothing in Plaintiff's objections persuades the court against adopting the Report and Recommendation in its entirety.<sup>2</sup> Although Plaintiff asserts that this case should be stayed because he is without a copy of the Third Amended Complaint, that claim is not relevant in deciding Defendants' motions to dismiss. Magistrate Judge Pead recommended dismissing Plaintiff's claims based on the Third Amended Complaint's failure to state a claim. That Plaintiff now lacks a copy of the Third Amended Complaint has no bearing on the sufficiency of the allegations contained therein.<sup>3</sup> As such, the court finds Plaintiff's objections unavailing.

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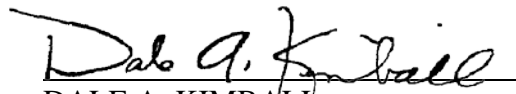
<sup>2</sup> It is important to note that per Plaintiff's request, the court ordered the Clerk's Office to mail Plaintiff a copy of the Third Amended Complaint in December 2019. ECF No. 80. Then, when Plaintiff was transferred to a new location, the court resent the Third Amended Complaint to his new address. *See* ECF No. 81, 82.

<sup>3</sup> Significantly, this is Plaintiff's *third* amended complaint. Nevertheless, it is still insufficient to survive Defendants' motions to dismiss.

The court therefore adopts and affirms Magistrate Judge Pead's Report and Recommendation in its entirety. Defendants' motions to dismiss [ECF Nos. 52 and 67] are hereby GRANTED, and Plaintiff's motion to stay [ECF No. 88] is DENIED. Plaintiff's federal claims against Dr. Williams and Turn Key are dismissed with prejudice, and Plaintiff's remaining state law claims are dismissed without prejudice for lack of subject-matter jurisdiction.

DATED this 2nd day of March, 2020.

BY THE COURT:

  
DALE A. KIMBALL  
United States District Judge